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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/444,660

11/22/1999

EDWARD J. PETRUS

8939

7590

07/29/2005

EDWARD J PETRUS  
3413 SPANISH OAK DR  
AUSTIN, TX 78731

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/444,660	<b>Applicant(s)</b> PETRUS, EDWARD J.	
	<b>Examiner</b> Rachel L. Porter	<b>Art Unit</b> 3626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

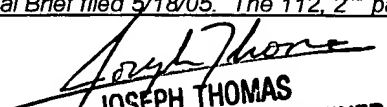
The Appeal Brief filed on 18 May 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The Appeal brief does not include an appendix discussing the previous Board Decision regarding the instant application and an appendix regarding any evidence submitted as described in item (8) above. Also the copy of the claims in the claims appendix does not match the copy most recently submitted in the After-final amendment dated 2/8/05 (see claim 1, step c "comparing for differences in ...") The current appeal brief also does not reference the amendments after final and does not provide the status of the claims.

Also, in a formal Appeals Conference, it was determined that the current claim language was not sufficient to overcome the 112, 1<sup>st</sup> paragraph rejections for inadequate written description raised by the BPAI and that the 112, 1<sup>st</sup> rejections should be maintained. Applicant is advised to submit arguments regarding the 112, 1<sup>st</sup> rejections in the supplemental Appeal Brief filed to correct the Non-Compliant Appeal Brief filed 5/18/05. The 112, 2<sup>nd</sup> paragraph rejections have been withdrawn.

  
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